

Montana Public Employee Retirement Administration
Table of General Revisions Legislation to be Considered for 2017
Last update 08/01/16

Current Code Section	Proposed Change	Reason	Notes	Responsible Person
19-2-602	Add minimum threshold for refunds to amount greater than the \$3 provided in ARM 2.4.201	Cost to issue minimum payments is greater than the value of these payments and at least 1 person has complained about getting a check for around \$13.	Patti suggests \$25.00 as the threshold. Cody Pearce from DOA confirmed 4/1/16 that DOA does not plan to change the amount in the ARM.	Kate
19-2-902(2)(a)	Add payment limit (single lump sum only) for trust beneficiaries in all systems	We can only pay a lump sum to a trust, estate or charity and need to be able to point to MCA section.	PERS is the only system that explicitly provides this limit (see 19-3-1204)...but see new (5) in 19-2-908 (2015) limiting survivorship benefits to persons making the election within 90 days of notice. Consider putting in each system	Kate
19-2-902(2)(a)	Consider replacing the “present value of the benefit” with the “accumulated contributions”??	Member/Beneficiary entitled to retirement benefit or survivorship benefit is entitled to election of present value of benefits in lieu of monthly benefit under this section, but we can’t calculate the present value in house currently, we have not done this historically, assume it would be expensive, time consuming, require change in programming, process, forms etc.	05/25 - Have Hollie contact CavMac to see if they have the ability to create a calculator. This will help to determine impact. Confirm with actuary we can either get a calculator, table etc. to determine the present value of the benefit in-house to include in the forms/letters that currently use the accumulated contribution value 19-2-602 re refunds conflicts and says “accumulated contributions”	Patty
19-2-903	Strengthen ability to collect overpayments following a death	No authority to collect on overpayments	05/25 - draft language and discuss further Taken care of in 2015? See HB 101.	Melanie
19-2-903	reduce overpayments following a death - Get authority to reverse EFT/ACH; and/or - Suspend payment if recipient suspected to no longer be receiving payment		Consider doing by rule	Bill

19-2-904	<p>Add to “retiree” eligibility for health insurance withholding eligibility for spousal (and maybe child?) withholding</p> <p>Or</p> <p>Eliminate this service for everyone</p>	We amended this section in HB101 from 2015 to acknowledge withholding for contingent annuitants, but probably want to further clarify	<p>CA who is covered by the member’s employer’s health insurance – spouse or child?</p> <p>Rule?</p> <p>Difficult to administer</p>	Kate/Patty
19-2-907	Consider specifying default in (5)(c) regarding annual increases	If FLO provides AP a percentage but doesn’t address increases, we have no statutory default to rely on.	<p>Alternatively, request clarification from existing FLO participants where this is an issue and don’t approve future FLOs w/o specification. KET 3/24/16</p> <p>Recommend that amendment is that the % increases are given to the AP unless the FLO says otherwise. May be less clean-up and less dissension. (MAS 5/23/16)</p>	Legal
19-2-1002	Add authority to assess liability and collect from ER when underlying entity stops participating – ie county nursing home is privatized resulting in 40 few participants for the reporting county.	Even if ER remains on the hook w GASB requirements, may be preferable to assess cost and get it up front from ER when entity still exists.	See provision for liability when ER terminates contract in 19-3-201(3)(d) or look at each system that has a contract statute.	Bill
19-2-1004	Address federal taxes (18 USC 3613)	I don’t see anything in MT statute or rule about this.	To clarify – address that federal taxes (and federal criminal penalties) are an exception. Benefits can be tapped for those costs.	Kate & Melanie
19-3-108(6)(b)	Remove “severance pay, including” from what types of lump sum payments made upon termination are included in HAC	Severance pay has been interpreted to be its own class of payment, rather than a descriptor of the included payments.	Using “severance” is confusing to members who then want to include pay for severance (to go away) in their HAC but b/c it is not included in the definition of compensation and we’re not collecting contributions on severance, it should come out here.	Melanie

19-3-201	Consider adding ability to assess the cost of the actuary calculating the outstanding actuarial liability of the terminating entity to the terminating entity.	When Helena BID terminated their PERS contract in December 2014, they paid the \$44k liability, but not the \$3k cost MPERA paid the actuary for the calculation. It seems reasonable to assess them and others in a similar situation this cost, but currently there is no authority to do that.	This issue may extend beyond terminating PERS employers so 19-3-201 is not necessarily the best spot to address cost recovery for actuarial work if other issues are at stake (an EE or system wanting a study for informational purposes) or if the ER is not merely terminating the contract but ceasing to exist (bankruptcy, purchase by private entity etc.) 19-2-405 talks about employment of the actuary	Kate & Bill
19-3-403	School superintendents	Clarify that school superintendents are not covered by PERS. Patty noted that same issue applies to certain MUS employees	request from Shawn Graham(TRS) I think the exclusion statute (-403) is the best place. They can't be in PERS so how can they be optional? (MAS 5/23/16)	Melanie - Superintendents Patty - MUS
19-3-505(1) 19-2-704	Insert "active or vested" before the word "member" in the statute.	Lins Issue	Ensure we limit eligibility to purchase service to active or vested inactive members and not inactive, non-vested members. Consider other service purchase statutes as "member" is too broad of a term.	Bill & Sheri
19-3-1105(2)(b)(ii)	Amend the reference to 19-3-902 to 19-3-906	Overlooked error in 2015 HB 101 rewrite of 19-3-1105 – reference should be to calculation, not eligibility statute	Where? (MAS 5/23/16) <i>Section (2)(b)(ii) states calculation will be as under "19-3-902 or 19-3-904" [902 is eligibility for early and 904 is amount of service]; assume we meant to reference both 904 and 906 amount for service and amount for early.</i>	Kate & Patty

19-3-1105	Revisit benefit on 2 nd retirement as changes made between 12/5/2014 and 12/9/2014 were not consistent with our goal.		Look at other systems – strive for consistency (similar to MPORS?) <i>I think we wanted to leave in what is now (2)(b) the phrase "but only with respect to the service credit earned after reemployment." as it was in (1) prior to 2015 and as was in our proposed draft.</i>	Patty & Melanie
19-3-1106(7)	Independent contractors and temporary contractors/workers		Trustee McGinley's and MACOs thoughts re ICs/MACO's thoughts re temps	Melanie/ Dore
19-3-1106(1)	Limits 960 hours - internally we only count hours worked, not hours paid	Statute provides for employment not to exceed 960 hours, rule states " does not work more than 960 hours"	Steering committee determined to continue past practice in LOB design but will revisit in future to correct.	Dore
19-3-1501(2)(a)	Add language stating no accumulated contributions are paid out upon the death of the contingent annuitant	Olsen Issue	Address other systems too. Depends on resolution of Olsen case.	Kate & Bill
19-3-2141(3)(c)(i)	Treat DC members hired after 7/1/2011 and incurring a disability similar to those with earlier hire date (3)(b) allows recipient disability benefits until age 65 if initially under 60 OR for 5 years if initially over 60 – compare with (3)(c) that would allow benefits for less than 5 years depending on age – was this 2011 change intentional??	Equity	Check with tax counsel and plan document	Bill & Patty – Legal to consider whether to pursue
19-3-2141	Add reference to 19-3-1103 in part 21 to make clear that DC disabilities are subject to DB earnings limitation	Eliminate the inconsistency	Requires input from Ice Miller	Legal to consider whether to pursue
19-5-502	Reference 19-5-902 in both subsections	2 GABA elections		Melanie
19-6-1005	Amend to clarify that interest is posted only at fiscal yearend, not monthly.	Confusing	From SAVA – Ginger Aldrich Look at MPORS DROP too	Melanie

19-7-410	Add work comp service purchase similar to PERS	Issue arising May 2016 illustrates that ERs have to pay compensation to sheriffs in addition to the work comp they receive if injured, but this is not true for detention officers or investigators.	If a DO/investigator only receives work comp, under statute as currently worded we don't technically have authority to collect any contributions... Problem as this results in disparate treatment from sheriffs AND injured member is penalized not only for their work-related injury from an income perspective, but also for retirement Discuss with SPOA/Jessie Luther	Kate/Patty/Melanie/Dore
19-7-1101	Add guidance on benefits for reinstated SRS member, GWPORS, exclude JRS Establish a number of hours - possibly 960 Effect on PERIS		Statute seems to only direct pausing of benefit but does not provide repayment of benefits paid upon reinstatement or calculation of benefits upon 2 nd retirement. See MPORS statute following passage of HB392 in 2015; Also consider addressing for other systems (at least FURS)* Consider all systems and an uniform 2 nd benefit?	Legal
19-9-1204	Amend (1) to say 19-9-801(1)(a).	19-9-801(1)(b) was added in 2013 and expands individuals eligible to retire to those age 50 and vested. This is not the population we intended to participate in the DROP and in fact, the 2003 legislation clearly applies only to 20 year members, not vested. Barb discovered this issue when preparing the FN for HB 392 in 2015.	Check for possible DROP members with less than 20 years. Check HPORS too.	Melanie
19-9-1207(1) and 19-6-1007	Consider repealing "consider newly hired" (1)	Issues with contributions, GABA, etc.	They are not "newly hired" for any reason other than GABA	Sheri/Kate – 19-9-1207 Sheri/Bill - 19-6-1007

19-13-104(10)	Add "fiscal" as year for reporting basis of \$300 annual compensation limit	\$300 a year in the part-paid firefighter definition doesn't specify whether year is calendar or fiscal Donna Bley thinks it has been reported as calendar previously but LOB is based on fiscal	Change law or programming? Sheri to talk with Donna	Kate-Donna Bley/
19-13-210	Talk with Tim Burton, why would have towns been excluded. - Dore Bill will talk with Blaine	– When we added 3 rd class cities and rural fire district departments to FURS in 2007, did we really mean to exclude towns? Did we really mean to allow rural districts not then in PERS to join PERS as a stair step to join FURS? Can we remove the step and let them go directly to FURS? What actuarial impact are we creating?		Bill and Dore
19-13-302	Acknowledge proportional membership in 19-2-403(4)...and membership in more than one system for different service/work		Seems to limit membership to one system (FURS) Wondering about the administration of 19-2-403(4) and how it impacts service credit for members – is it working? Do we want to expand to FURS (assuming this is an expansion)	Kate/Patty
19-13-1101	Add guidance on benefits for reinstated FURS member		*See Notes for 19-7-1101 Do we want to allow working retirees in all systems and devise one way to calculate the 2 nd benefit (Legal
19-17-102(22)	Define the age requirement	Departments are violating FLSA and Title 7, ch. 33 by allowing <18 volunteers	Notify MT Volunteer FF Assoc	Bill

19-17-109	(3) clarify that the roster should not include retired members (receiving a pension from VFCA), whether they have returned to service or not	Currently just says “active and inactive members.” “Inactive member” is defined as a member not receiving credit for that year, and 19-17-412 allows retired members to return to service and only states that they may not receive credit. Under 19-17-501 medical and funeral expenses are available to a member listed on the roster for line of duty death/injury	So.... Retired member hurt or killed at a fire wouldn't get the medical or funeral expenses? Age discrimination? May want to wait on VFCA PLR?	Bill and Hollie
19-17-112(2)(b)	Remove SSN as a requirement on the annual certificate? Why do we need this annually? If they report it once initially (i.e. to enroll the member), there should be no ongoing need to collect the SSN every year.	2-6-502 requires limiting use of SSN	We have already limited to last 4 on PERIS form but better to remove? KET 7/2/15	Bill
19-17-407	Rework section...or revise 15-30-2101 to specifically include VFCA benefits to allow continued exemption.	Section 407 provides an exemption from state income tax for the amount determined pursuant to 15-30-2110(2)(c) [\$3600 exemption that phases out between \$30,000 and \$31,800] BUT that section uses the definition of “pension and annuity income” provided in 15-30-2101, which I don't think includes VFCA benefits. KET 5/26/15	Wait for VFCA PLR? DOR commented.	May need to wait for PLR
19-17-412	Clarify that a retired member returning to service is not entitled to any additional VFCA benefits including medical or funeral benefits.		Wait for VFCA PLR?	Bill and Hollie
19-17-506	Remove payment directly to medical care or funeral service provider if they are taxable and need to go to claimant. Also note 503 requires a bill, while 506 requires a receipt – remove need for both?		Wait for VFCA PLR?	Bill and Hollie